

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

www.montgomerycountymd.gov/content/council/boa/index.asp

(240) 777-6600

Case No. S-2835

PETITION OF MAXINE HILLARY

OPINION OF THE BOARD

(Opinion Adopted July 25, 2012)

(Effective Date of Opinion: August 7, 2012)

Case No. S-2835 is an application for a special exception, under Section 59-G-2.00 of the Zoning Ordinance, to permit an accessory apartment. The subject property is Lot 75, Block 55B, B. F. Gilbert Subdivision, located at 8119 Sligo Creek Park Way, Takoma Park, Maryland 20912, in the R-60 Zone.

The Hearing Examiner for Montgomery County held a hearing on the application on May 31, 2012, closed the record in the case on June 15, 2012, and on July 13, 2012, issued a Report and Recommendation for approval of the special exception.

Decision of the Board: Special Exception **Granted**, Subject to
The Conditions Enumerated Below.

The Board of Appeals considered the Report and Recommendation at its Worksession on July 25, 2012. After careful consideration and review of the record, the Board revises the proposed conditions of approval as follows: delete subsection "e" from Condition 2, and insert a new Condition 3. With these revisions, the Board adopts the Report and Recommendation and grants the special exception subject to the following conditions:

1. The Petitioner is bound by her testimony, representations and exhibits of record to the extent that such testimony and evidence are identified in the Hearing Examiner's Report and in this opinion;
2. The Petitioner must comply with the conditions set forth in the Memorandum of Ivan Eloisa, Housing Code Inspector, Division of Housing and Code

Enforcement (Exhibit 12):

- a. A GFCI (ground fault circuit interrupter) electrical receptacle in the accessory apartment bathroom must be installed.
 - b. A smoke detector outside the sleeping area of the basement accessory apartment must be installed.
 - c. The total habitable space in the basement accessory apartment measures approximately 600 square feet. It includes one bedroom that measures 136 square feet.
 - d. The accessory apartment may be occupied by no more than two (2) [people] due to the bedroom space limitations.
3. The Petitioner must reserve two off-street parking spaces for use by the tenants.
4. The Petitioner must occupy one of the dwelling units on the lot on which the accessory apartment is located;
5. The accessory apartment must not be located on a lot that is occupied by a family of unrelated persons, or where there is a guest room for rent, a boardinghouse or registered living unit;
6. The Petitioner must not receive compensation for the occupancy of more than one dwelling unit; and
7. The Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioner shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

On a motion by David K. Perdue, Vice-Chair, seconded by Stanley B. Boyd, with Carolyn J. Shawaker, Walter S. Booth and Catherine G. Titus, Chair, in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 7th day of August, 2012.

Katherine Freeman
Executive Director

NOTE:

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.